justify the defendant in so doing, jurors are inclined to deal harshly with such defendants.

And the court concluded that Ray

. . . willingly, knowingly and intelligently and with the advice of competent counsel entered a plea of guilty to murder in the first degree by lying in wait, and this Court cannot sit idly by while deepening disorder, disrespect for constituted authority, and mounting violence and murder stalk the land and let waiting justice sleep.

Judge Faquin had ruled against Ray in contravention, I believe, of ection 17-117 of the Tennessee Code Annotated, the relevant statute. he Court of Criminal Appeals of Tennessee refused to grant the petition nd finally the Supreme Court of Tennessee refused to hear the argu- ents. Ray then chose to make an appeal to the federal court system. uring April 1970, the lawyers who had been representing Ray withdrew rom the case.

Bernard Fensterwald, Jr., a Washington, D.C., lawyer who was a ative of Tennessee became counsel for Ray. He was associated in ecember 1972 as Ray's attorney with Robert Livingston, a Memphis awyer, and James Lesar, then recently admitted to the bar in Washing- on, D.C.

There were at least two potential bases for Ray's application to the ederal court system for a new trial: the allegation that Ray had been oerced into making his guilty plea and the allegation that important new vidence had subsequently been uncovered. In my opinion, the first was he weaker of the two, being inherently more difficult to establish and ustain. Much more compelling, and far easier to sustain, it seems to me, would have been an allegation that hitherto undeveloped evidence trongly suggested that there had been a conspiracy to murder Dr. King. The mysterious transfer of Detective Ed Redditt and the equally mysteri- ous transfers of fireman Floyd Newsum and N. E. Wallace would, alone, have raised serious questions which the prosecution would have had difficulty answering.

Ray's attorneys brought their action for a writ of *habeas corpus* to the United States District Court for the middle district of Tennessee in the form of a petition and a supporting Memorandum of Facts. This Memorandum of Facts, hyperbolically headed "A Sham, A Farce, and a Mockery," was signed by Fensterwald, Lesar and Livingston. While it adopted an aggressive and rhetorical tone it concluded with the plea

a legal lynching"), it was doubtless designed to make the federal court sit up and take notice of the case. What other effects that may have had on the court's attitude can only be surmised.

At one point the memorandum referred to the narration of a lawyer as "perjury," although, since the lawyer had not made a statement under oath, the charge was incorrect. At another point, the memorandum charged that Judge Battle (then deceased) and others were "participants in these illicit meetings [which] have revealed, in part, this corruption of the judicial process."

But, as I have suggested, probably more important than what the memorandum did say was what it did not. By this time there existed a substantial number of leads that could, with further investigation, have developed new evidence that could have provided the basis for granting a new trial.

Harold Weisberg, the defense's investigator, had in 1971 written a book, *Frame-Up*, in which he referred only briefly to Detective Ed Redditt (whom Weisberg calls "Reddick"), dismissing him as a police spy and never inquiring into the matter of his removal from the scene shortly before Dr. King was shot. Similarly, he did not explore the importance of the observations of the other police officer on the scene, W. B. Richmond (whom Weisberg variously calls "Richardson" and "Richman"). He did not refer to either of the black firemen by name and summarized the twenty-five year high-level association of Memphis Fire and Police Departments Director, Frank Holloman, with the FBI merely by characterizing him as "a former FBI agent." At no point in *Frame Up* did Weisberg, who later claimed that he was the only one who had ever been Ray's investigator, claim to have interviewed any of these men.

On the strength of this, one may speculate that Ray's defense team was either unaware of the significance of these leads or simply did not choose to develop them. What is apparent is that they did not use them.

Ray's application to the District Court was denied. The matter was appealed to the United States Court of Appeals for the Sixth Circuit, which remanded the matter to the District Court for an evidentiary hearing. After the hearing it was again denied. On further appeal, the Court of Appeals affirmed the District Court's denial. It was finally submitted to the United States Supreme Court on a writ of *certiorari*. That application, too, was denied.

When I met with Ray, at his request, and interviewed him at the Brushy Mountain Penitentiary in Petros, Tennessee, Ray was receptive,